



WHERE WE STAND

A look at the use of force policies of
the **Eureka Police Department**

#8CANTWAIT: A COMPARISON TO CURRENT LAW, ALTERNATIVES, & EPD POLICY

In 2019, the California Police Chiefs Association (CPCA) led law enforcement stakeholders in discussions that ultimately set a new legal standard for peace officers' use of deadly force in California (AB 392, Weber), and CPCA sponsored legislation, which set national precedent by establishing a minimum use of force policy standard for all departments (SB 230, Caballero).

Most of the policies outlined in the 8CANTWAIT campaign have already been captured by these two new landmark laws which set an example for policing across the nation. However, several provisions, most notably the requirement that officers exhaust all alternatives, were not included in either bill due to shared concerns by law enforcement and policy makers. Instead, alternatives to those provisions were embraced to accomplish our shared goal of reducing deadly force incidents.

This informational document summarizes the provisions in the 8CANTWAIT platform already either captured directly in statute and existing Eureka Police Department policy, or concerns and alternatives with what is being proposed. We believe you will find most, if not all, of EPD's use of force policies directly align with the spirit of the campaign's recommendations even though there are nuances in verbiage.



BAN CHOKEHOLDS & STRANGLEHOLDS

The use of the carotid control hold (carotid restraint) or choke hold is not authorized by the Eureka Police Department.

EPD Policy section 300.3.4 and Penal Code 835a cover this area.

REQUIRE DE-ESCALATION

EPD trains our officers in de-escalation techniques & tactics on a recurring basis. Officers attend full day training courses for defusing critical incidents. SB 230 requires that *"officers utilize de-escalation, crisis intervention tactics, & other alternatives to force when feasible."*

SB 230 also mandates each policy require officers to conduct all duties in a manner that is fair and unbiased. Additionally, SB 230 requires all officers be trained in alternatives to deadly force and de-escalation techniques.

REQUIRE USE OF FORCE CONTINUUM

The Use of Force Continuum concept is an outdated model that has been proven impractical & even dangerous when applied in real life situations.

It has given way today to more knowledgeable, science-based training & policies. Instead, policies should focus on requiring officers to create time, space, & separation in an effort to utilize de-escalation techniques (per SB 230).



REQUIRE WARNING BEFORE SHOOTING

AB 392 and Penal Code 835a state that *"where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts."* This requirement is also consistent with federal case law.

REQUIRE COMPREHENSIVE REPORTING

EPD Policy 300.5 requires officers to document any use of force promptly, completely and accurately, in an appropriate report. Policy 300.5.1 states, *"Supervisory notification shall be made as soon as practicable following the application of force..."*

SB 230 requires *"comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident."* SB 230 also requires officers to report any excessive force they witness.

DUTY TO INTERVENE

EPD requires an officer who views excessive force to intervene when able to do so.

EPD Policy 300.2.1 states:

"Any officer present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede to prevent the use of unreasonable force..."

Duty to Report Excessive Force (EPD Policy 300.2.3):

"Any officer who observes a law enforcement officer or an employee use force that potentially exceeds what the officer reasonably believes to be necessary shall promptly report these observations to a supervisor as soon as feasible."



REQUIRE EXHAUST ALL ALTERNATIVES BEFORE SHOOTING

Eureka Police officers are bound by Subdivision (a)(2) of Penal Code 835a, which states, *"...it is the intent of the Legislature that peace officers use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."*

This provision in the "8CantWait" campaign was rejected in the AB 392 debate because of the untenable position it puts officers and departments in by permitting second-guessing of split-second decisions under circumstances that are often tense, uncertain, and rapidly evolving. Instead, the focus should be on training alternatives to deadly force, requirements on proportional force, and de-escalation requirements, all of which are contained in SB 230. If this requirement is implemented, an officer's decision concerning the use of force alternative should be judged based upon the totality of the circumstances and reasonable officer standard in AB 392.

BAN SHOOTING AT MOVING VEHICLES

Outright prohibitions in all circumstances do not account for situations where the driver of a vehicle may be threatening or in the act of committing death or great bodily injury to others. (Such as vehicle ramming attacks or the 2015 terrorist attack in San Bernardino.) SB 230 requires *"Comprehensive and specific guidelines for the application of deadly force,"* which should include guidance on the limited situations that would warrant shooting at moving vehicles.



EPD Policy 300.4.1 restricts shooting at moving vehicles:

"Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others, or the driver is attempting to use the vehicle as a weapon of mass destruction in an apparent terrorist attack. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle."

BODY WORN CAMERAS

EPD adopted the mandatory use of officer-worn cameras in 2016. Officers are required to turn on and use the cameras when responding to calls for service including all enforcement and investigative stops and field interviews etc.

TRAINING OUR OFFICERS

We value and invest heavily in training, including implicit bias, procedural justice, de-escalation, and crisis intervention training. We seek to exceed POST minimum standards.



COMMUNITY POLICING MENTALITY

We believe we are better together and that the "police are the public and the public are the police."

"Partnership, understanding, and trust are the building blocks of any successful community policing program. The men & women of EPD are committed to building strong, trusting relationships with our whole community. We must reflect and uphold its values." ~Chief Watson



WHERE WE GO FROM HERE

We know the "status quo" is not good enough. We must continue to evaluate and elevate our profession to ensure we are serving and protecting our community to the high standards they expect.

SERVING OUR MOST VULNERABLE
EPD leads the way through innovative, compassionate, and collaborative programs such as our Community Safety Engagement Team (CSET) and Mobile Intervention & Services Team (MIST). These officers connect directly with Eureka's homeless (including the addicted and mentally ill) to provide outreach, services, and support. This is accomplished by building relationships and working in partnership with those within the homeless community, public and nonprofit service providers, and other community stakeholders. Accountability for behavior is balanced with compassion and outreach.

**EPD IS THE ONLY LOCAL
LAW ENFORCEMENT
AGENCY WITH A
CITIZENS ADVISORY
PANEL/BOARD (CAP).**

The purpose of the CAP is to give counsel, support, guidance, and recommendations to Chief of Police for the purpose of improving transparency and fostering strong relationships with the whole community we serve. The CAP also serves as another layer of review and accountability for the Chief and department.

OVERSIGHT & ACCOUNTABILITY

The Chief of Police reports directly to the City Manager who reports to the City Council. Significant matters of employee discipline and misconduct (including administrative appeal hearings before the Personnel Board) are coordinated with the City's Human Resources Department and the City Attorney's Office. Both entities are completely independent of the police department, nonpolitical, and nonpartisan. The police Citizens Advisory Panel may also review and evaluate internal administrative investigations, including allegations of police misconduct and employee discipline actions as legally allowable. CAP members may also serve on the department's Use of Force Review Board. Outside legal counsel and investigators are also used in some cases.